IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5889 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANESH POLY PACKS

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR DEEPAK PATEL for MR DG CHAUHAN for Petitioners

MR JM BAROT for MR HS MUNSHAW for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/04/2000

ORAL JUDGEMENT

#. Though the notice was given to respondents of this writ petition on 30.8.1996, but till day the reply-affidavit has not been filed. The matter was admitted on 10.4.1997 and thereafter also sufficient time was available to the Board, but it has felt contended and

satisfied not to file reply to this Special Civil Application. In the absence of the reply to the Special Civil Application the averments made therein stand uncontroverted and same are to be taken to be admitted. But in this case, I do not consider it to be appropriate to adopt this course.

#. The petitioner does not press for the prayer made in para 16(B) of the Special Civil Application. The writ petition has been confined only to the prayer made in para 16(A).

#. The grievance of the petitioner is that under the notice dated 20.7.1996 the demand of Rs.1,33,128/= has been made for the outstanding dues of erstwhile owner of the unit in question. It is the say of the petitioner that this unit has been purchased by the petitioner, in open auction and if any dues of the consumption of electricity charges are there of the erstwhile unit, the same cannot be recovered from the petitioner. In support of this case the petitioner placed reliance on the decision of the apex court in the case of M/s. Isha Marbles Vs. Bihar State Electricity Board and Ors. reported in 1995(2) SCC 648.

#. The notice, aforesaid, is not very specific and clear that this amount, which is demanded from the petitioner is the amount of the outstanding dues of the erstwhile unit or not. Moreover, the board has not also taken care to make the position clear. The interest of justice will be served in case this notice may be taken to be only a show cause notice to the petitioner and the petitioner may file detail reply to the same within a period of one month from today and thereafter the Board shall decide the matter in accordance with law after hearing the petitioner, if personal hearing is desired. In pursuance of the order of this court dated 9/8/96, if the petitioner has paid the amount as demanded by the Board, that deposited amount shall continue with the Board. If the Board decides the matter in favour of the petitioner the Board shall adjust this amount towards the electricity bill of the petitioner or towards any other outstanding dues stand in the name of the petitioner.

Rule and Special Civil Application stand disposed off accordingly with no order as to costs.

(S.K.Keshote, J.)
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